



DNREC Virtual Public Hearing

For a Title V Permit Renewal for the Delaware City Refining Company (Docket #2020-P-A-0017)

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DIAL-in Number: 1-408-418-9388

Event Number: 129 391 4939

No comments will be taken in person during this hearing. Comments will be accepted using the DNREC comment form, via email, or by USPS mail as noted on the hearing event page (de.gov/dnrechearings)

Delaware City Refining Company Title V Permit Renewal Public Hearing



July 14, 2020

Presented by: Lindsay Rennie

Blue Skies Delaware; Clean Air for Life

Public Hearing

- Public comments are received in writing via email, the website, or mail through July 31, 2020.
- Comments are entered into the formal hearing record.
- The Division of Air Quality (DAQ) will draft a technical response memo to address comments that are pertinent to the air quality considerations related to the permit.
- The Hearing Officer will draft a report and an Order for the Secretary's consideration.
- DAQ will resubmit a "Proposed" Permit to EPA for consideration.



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Preliminary Response to Initial Comments

- The final technical response memo will address pertinent comments submitted during the public comment period, and the public hearing comment period.
- The following summarizes DAQ's preliminary responses to comments submitted accompanying the public hearing request.



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- Comment: The draft permit unlawfully gives DNREC discretion to excuse noncompliance during periods of unplanned shutdowns of the FCU, FCCU, or their controls.
- Response: The referenced provision follows EPA's Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown guidance.
 - The guidance allows an enforcement discretion approach to excess emissions occurring during startup and shutdown periods. Enforcement discretion allows a regulatory body to determine whether a specific violation by a source warrants enforcement and to determine the nature of the remedy to seek for any such violation.
 - The provision must provide that it is the facility's responsibility to demonstrate that emissions were unavoidable, the impact of the emissions were minimized, that the unit and monitoring systems were operated with good practice standards, and the appropriate regulatory bodies were notified.



- Response: The provision does not do the following:
 - Is not a “director’s discretion” provision which would administratively determine that an occurrence of excess emissions is not a violation. Instead, this provision explicitly recognizes excess emissions as noncompliance.
 - Does not provide an automatic exemption from the emission limits or preemptively waive future penalties.
 - Does not bar the EPA’s ability to seek enforcement action, or the citizens’ ability to seek enforcement through the courts.

The facility has not elected to make use of this provision since its inclusion in the permit.



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- Comment: The draft permit unlawfully relaxes federally enforceable limits during planned startup and shutdown of the FCU and FCCU and when the FCCU's CO boiler is combusting only refinery fuel gas.
- Response:
- The Startup and Shutdown (SS) limits are short-term limits that apply in lieu of the normal operating short-term limits. They are not in lieu of the annual limits. Emissions that occur during SS periods must be included in the long-term limit totals. This will be clarified in the proposed permit.
- The emission limits are continuous. Federal regulations require that emission limitations be continuous but it does not require that emission limits be the same at all times, nor does it require that emission limits be numerical. For pollutants for which no short-term limit is specified, annual limits serve to ensure there is a continuous emission limit. The presence of SS limits for SIP emission limits provides an additional layer of environmental protection with the annual limits.
- The SS limits do not relax federal limits. The SS limits are the same, or lower than federal limits, even if expressed in a different format.



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■ Response: FCCU

Pollutant	Normal Operation Limits	Startup/ Shutdown Limits	
VOC	0.4 lb/mmdscf	9.5 lbs/hr	Similar limit.
PM	1 lb PM/ Mlb coke burn	500 lbs/hr	Minimal coke burn during SS periods. SS limit to be reevaluated.
SO2	25 ppm – 365 day avg. 50 ppm – 7 day avg.	165 lbs/hr	This is approximately 50 ppm but reflected as an hourly limit rather than a 7 day limit.
CO	500 ppm	500 ppm	SS provision updated in last Significant Modification.
HAP	Part 63 UUU HCN: 45 lbs/hr	Part 63 UUU Maintain O2 conc. in exhaust gas at 1%	HCN emitted during full burn, proportional to coke burn-off. HCN compliance based on CO compliance.
NOx	108.2 ppm – 7 day avg. 79.6 ppm – 365 day avg. 137 ppm/100.7 ppm	137 ppm – 7 day avg. 100.7 ppm – 365 day avg.	Reflects emissions established prior to SNCR installation. NOx Cap also applies at all times for all NOx units.
Pb	0.000437 lbs per Mlb coke burn-off		Emission Factor based limit, compliance determined by stack test. No stack test data for SS periods.



■ Response: FCU

Pollutant	Normal Operation Limits	Startup/ Shutdown Limits	
VOC	0.14 lb/mmdscf	1.6 lbs/hr	Lower limit.
H2SO4	40% reduction & 10 ppm, 67.5 lb/hr	58 lbs/hr	Lower limit.
TSP	0.3 lb/mmbtu, 60.9 lbs/hr	47.1 lbs/hr	Lower limit
PM10	0.3 lb/mmbtu, 128.4 lb/hr	133.3 lbs/hr	This limit is not a federal limit, but will be reevaluated.
SO2	25 ppm – 365 day avg. 50 ppm – 7 day avg.	95 lbs/hr	This limit is ~50 ppm, but expressed hourly rather than weekly.
CO	500 ppm - hourly 200 ppm - 365 day avg.	415 lbs/hr	This limit is less than 500 ppm.
NH3	2.3 lbs/hr	2 lbs/hr	Lower limit.
NOx	152 ppm - 7 day avg. 115.2 ppm - 365 day avg.	NOx Cap	Facility-wide NOx Cap applies at all times.
Pb	0.000437 lbs per Mlbs coke burn-off	0.12 TPY	Emission Factor based limit, compliance determined by stack test. No stack test data for SS periods. Annual limit applies.
HAP	Ni: <0.001 lbs/Mlbs coke burn-off Reduce by 98% or to 20 ppm	0.27 TPY	Minimal coke burn during SS periods. Annual limit applies.



- Comment: The draft permit includes an unlawful affirmative defense to liability for exceedances of “technology-based” limits during emergencies and malfunctions.
- Response: The provision referenced in the permit is found in 7 DE Admin. Code 1130, Section 6.7.2. It is based on EPA’s 1999 Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown guidance. This policy clarifies that States have the discretion to provide an affirmative defense (to excuse a source from penalties if the source can demonstrate that it meets certain objective criteria) from actions for penalties brought for excess emissions that arise during certain malfunction, startup, and shutdown episodes.
- The EPA has since concluded that the enforcement structure of the CAA precludes any affirmative defense provisions that would operate to limit a court’s jurisdiction or discretion to determine the appropriate remedy in an enforcement action.
- In the same regulation, in Section 6.2 it states in part “... all terms and conditions in a permit issued under [Section] 6.0 of this regulation...are enforceable by the Department, by EPA, and citizens under section 304 of the Act.” This regulation does not seek to limit EPA’s or citizens’ ability to seek enforcement.



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Public Hearing Exhibits

1. Permit Renewal Application
2. Permit Amendment Request
3. “Draft/Proposed” Permit
4. Permit Renewal Technical Memorandum
5. Renewal Legal Notices
6. Request for a Public Hearing
7. Public Hearing Legal Notices
8. Notification of Hearing to Requester
9. Public Comment
10. DAQ PowerPoint Presentation





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(Docket #2020-P-A-0017)**

Thank you for joining us. We will accept comments on this matter through July 31, 2020.

You can submit your comments using the DNREC comment form,
via email, or by USPS mail, as noted on the hearing event page.

A copy of the Court Reporter's full, verbatim transcript will be posted on this hearing's web page
as soon as it becomes available.

For more information, find the event page for this hearing on the DNREC Public Hearings page
(de.gov/dnrechearings).